

REMARKS/ARGUMENTS

Claims 13-16, 18-19, 21, and 27-31 were previously pending in the application. Claims 18 and 30-31 are canceled and claims 13 and 28 are amended herein. Assuming the entry of this amendment, claims 13-16, 19, 21, and 27-29 are now pending in the application. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

Restriction Requirement:

Claims 30-31 are canceled to comply with the restriction requirement stated in the office action.

Improper Finality:

On page 5 of the office action, the Examiner stated that "Applicant's amendment necessitated new ground(s) of rejection presented in this office action. Accordingly, this action is made final." For the following reasons, the Applicant submits that the finality of the office action is improper and should be withdrawn.

In the amendment submitted to the USPTO on 02/21/06, claim 13 was amended to incorporate the recitations of original claim 17. As such, claim 13 presented in that amendment was equivalent to original claim 17 rewritten in independent form. Since the arguments presented in the amendment of 02/21/06 overcame the rejections stated in the office action of 11/29/05, the rejections stated in the last office action constitute new grounds of rejection of an originally filed claim. Therefore, the Examiner's reliance on MPEP § 821.03 in making the last office action final is improper and it is accordingly requested that the finality be withdrawn.

Claim Rejections:

On page 2 of the office action, the Examiner rejected claims 13-16, 18-19, 21, and 27-29 under 35 U.S.C. § 102(b) as being anticipated by Kato. For the following reasons, the Applicant submits that all pending claims are allowable over Kato.

Support for the amendment of claim 13 can be found, e.g., in original claims 18 and 19. Amended claim 13 specifies, inter alia, that the oxygen-to-nitrogen ratio in the mixture of oxygen and nitrogen ranges from about 24:6 (=4) to about 18:12 (=1.5).

Kato discloses a lithographic mask material comprising aluminum, nitrogen, and oxygen. In various examples presented by Kato, it is specified that the lithographic mask material is deposited from a gas atmosphere having a composition of argon, nitrogen, and oxygen of either 1:3:0.1 (col. 5, lines 60-61; col. 7, lines 24-25; col. 12, lines 18-19; col. 18, lines 30-31; and col. 21, lines 37-38) or 1:1:0.5 (col. 6, line 56; col. 9, lines 36-37; col. 11, line 56; col. 14, lines 22-23; col. 17, lines 21-22; col. 19, lines 64-65; and col. 22, lines 15-16). As such, Kato teaches the oxygen-to-nitrogen ratio in the gas atmosphere to be either 0.5:1 (=0.5) or 0.1:3 (=0.033). These ratios are clearly outside the range of ratios (from about 4 to about 1.5) explicitly recited in claim 13. Advantageously, a fabrication method that uses an oxygen-to-nitrogen ratio from the range recited in claim 13 results in a dielectric film having a lower fixed charge density than that obtained with the oxygen-to-nitrogen ratios taught by Kato (see, e.g., Applicant's Table 1).

For all these reasons, the Applicant submits that claim 13 is allowable over Kato. Since claims 14-16, 19, 21, and 27-29 depend variously from claim 13, it is further submitted that those claims are also

allowable over Kato. The Applicant submits therefore that the rejections of claims under § 102 have been overcome.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

Respectfully submitted,

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